

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.231 of 2019

Date: 15.03.2019

Between:

M. Tabarak Ali and another

...Appellants

And

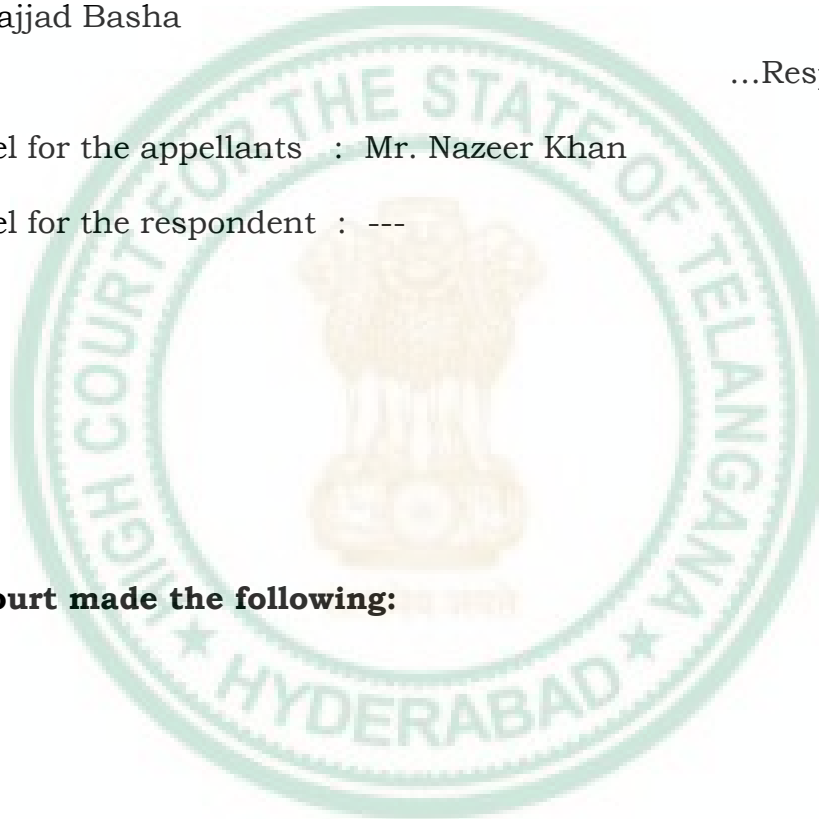
Syed Sajjad Basha

...Respondent

Counsel for the appellants : Mr. Nazeer Khan

Counsel for the respondent : ---

The Court made the following:



JUDGMENT: (Per the Hon'ble Sri Justice Raghvendra Singh Chauhan)

The appellants have challenged the legality of the order dated 27.12.2018, passed by the VI Additional District Judge, Siddipet, whereby the learned Judge while dismissing the petition filed by the respondent-father, under Section 10 and Section 25 of the Guardians and Wards Act, 1890 ("the Act" for short), has granted him limited visitation rights on every First, Third and Fourth Saturdays depending upon his convenience and attendance of the child, and has also permitted him to take the child with him during the holidays. The visiting hours are to be decided by both the parties. The learned Judge has also granted liberty to both the parties to approach the Court for any further direction regarding visitation rights of the respondent-father.

Briefly, the facts of the case are that the respondent-father was married to one Nishath Anjum on 17.01.2014, at Siddipet, as per the rites and customs of the Muslim Community. The couple led a happy life for about one year. They were blessed with a female child, Nishath Fathima, who was born on 27.11.2014. Unfortunately, the wife was suffering from breast cancer, and eventually succumbed to the same on 19.12.2014. After the death of Nishath Anjum, the minor daughter, Nishath Fathima, was brought up by the appellants. Subsequently, the respondent-father filed a petition under the Act. However, the learned Judge has passed the impugned order as aforementioned. Hence, this appeal before this Court.

Mr. Nazeer Khan, the learned counsel for the appellants, submits that the child is about four and half years old. Therefore, it will be difficult for the child to be left with the respondent-father

during the holidays, as the child would be unfamiliar with him. Therefore, according to the learned counsel, the part of the order granting temporary custody to the respondent-father during the holidays should be interfered with.

This Court has asked a pointed query to the learned counsel for the appellants whether the impugned order was immediately implemented by the appellants or not? For, if the order were implemented immediately, the respondent-father would have interacted with the minor child on First, Third and Fourth Saturdays of each month. To this query, the learned counsel submits that the impugned order has never been implemented by the appellants. Therefore, so far, the child has no occasion to interact with the respondent-father.

Needlesstosay that it is imperative for the child to interact with the father, as the presence of the father tends to psychological comfort the child. In the absence of the father, the child is bound to be psychologically impacted, as the child will continue to look for a father figure. In this case, the child has already lost her mother. Therefore, the psychological condition of the child will be aggravated by the absence of both the parents. Therefore, the learned Judge was justified in granting limited visitation rights on the First, Third and Fourth Saturdays of each month. Had this scheme been implemented, by now, the child would have been familiar with the father. Once a child is familiar with the father, it would not be difficult for the child to feel comfortable with the father even during the holidays.

Yet, surprisingly, despite the fact that there is no stay of the order dated 27.12.2018, the appellants have failed to implement

the said order. The appellants cannot be permitted to prevent the child from interacting with her own father. Moreover, they cannot be permitted to deprive the respondent-father of his right to have the comfort and company of his child. Therefore, this Court does not find any merit in the present appeal.

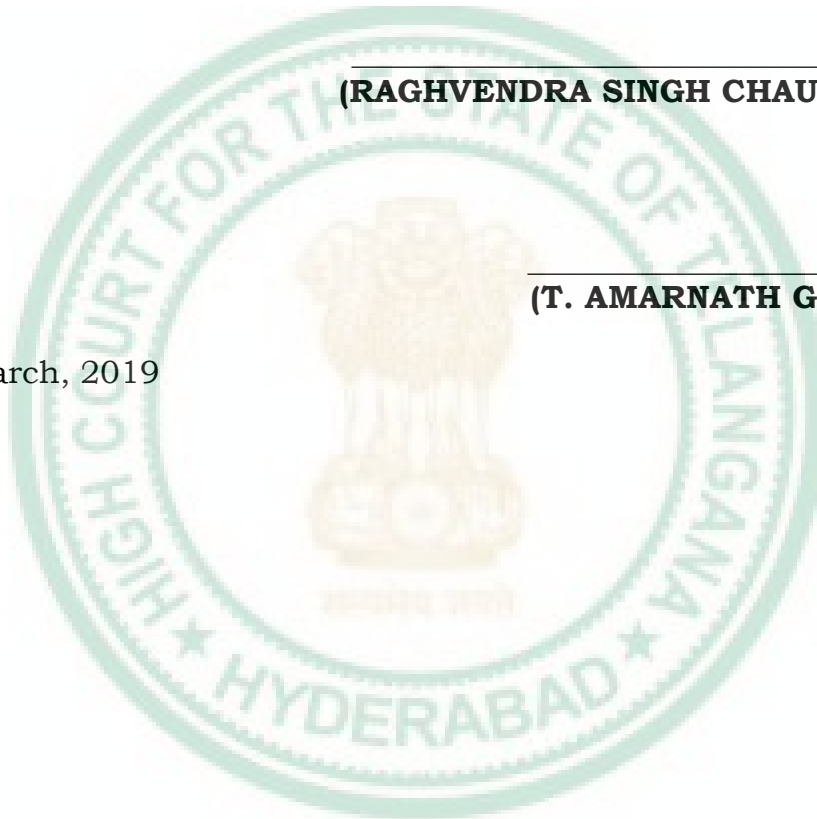
For the reasons stated above, the appeal is hereby dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

(RAGHVENDRA SINGH CHAUHAN, J)

(T. AMARNATH GOUD, J)

15th March, 2019
JSU



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